

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GLEN LIVERMORE,

Plaintiff,

v.

MAGGIE MILLER-STOUT, et al.,

Defendants.

NO: CV-12-377-RMP

ORDER DENYING MOTION FOR
RECONSIDERATION

BEFORE THE COURT is Plaintiff's letter dated September 13, 2012, addressed to the undersigned judicial officer. ECF No. 27. Plaintiff, a *pro se* prisoner proceeding *in forma pauperis*, inquires why he has not been granted his "day in court." The Court liberally construes Mr. Livermore's letter as a "Motion for Reconsideration" of the Order Dismissing First Amended Complaint.

Motions for reconsideration serve a limited function. "[T]he major grounds that justify reconsideration involve an intervening change of controlling law, the

1 availability of new evidence, or the need to correct a clear error or prevent manifest
2 injustice.” *Pyramid Lake Paiute Tribe v. Hodel*, 882 F.2d 364, 369 n.5 (9th Cir.
3 1989). Such motions are not the proper vehicle for offering evidence or theories of
4 law that were available to the party at the time of the initial ruling. *Fay Corp. v.*
5 *Bat Holdings I, Inc.*, 651 F.Supp. 307, 309 (W.D. Wash. 1987).

6 In the instant case, Plaintiff has not alleged that there has been an
7 intervening change of controlling law. Likewise, he has not offered newly
8 discovered evidence that would justify this Court re-examining the issue. Thus,
9 the only remaining question is whether the Court should alter its prior ruling in
10 order to “correct a clear error or prevent manifest injustice.” *Pyramid Lake*, 882
11 F.2d at 369 n.5.

12 As previously explained, a complaint must set forth the specific facts upon
13 which the plaintiff relies in claiming the liability of each defendant. *Ivey v. Board*
14 *of Regents*, 673 F.2d 266, 268 (9th Cir. 1982). Even a liberal interpretation of a
15 civil rights complaint may not supply essential elements of a claim that the plaintiff
16 failed to plead. *Id.*

17 Although granted the opportunity to amend, Plaintiff’s allegations in the
18 First Amended Complaint did not present a short and plain statement of the facts
19 showing his was entitled to relief against identified Defendants. If a plaintiff fails
20

1 to state a claim upon which relief may be granted, then an action is dismissed
2 without a trial or any further proceedings before the Court.

3 In addition, by choosing to bring litigation in the Federal District Court, a
4 prisoner plaintiff obligates himself to pay the full filing fee as required by 28
5 U.S.C. § 1915(b)(1), regardless of the outcome of the lawsuit. When Mr.
6 Livermore signed his Declaration and Application to proceed *in forma pauperis*,
7 ECF No. 2, he acknowledged this fact. Therefore, **IT IS ORDERED** that
8 Plaintiff's Motion for Reconsideration, ECF No. 27, is **DENIED**.

9 **IT IS SO ORDERED.** The District Court Executive shall enter this Order
10 and forward a copy to Plaintiff at his last known address. The file shall remain
11 closed. The Court certifies any appeal of this decision would not be taken in good
12 faith.

13 **DATED** this 18th day of September 2012.

14
15
16 s/ Rosanna Malouf Peterson
17 ROSANNA MALOUF PETERSON
18 Chief United States District Court Judge
19
20